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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 255 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

PRAKASHBHAI MOHANLAL ADTHAKKAR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 255 of 2004
MR MURALI N DEVNANI for Petitioner No. 1
MR LB DABHI, AGP for Respondent No. 1-4
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CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 23/02/2005

ORAL JUDGEMENT

Counsel for the petitioner seeks permission to delete respondent Nos.5 & 6. Permission granted.

2. Rule. Learned AGP Mr.Dabhi waives service of notice of rule on behalf of the respondents. At the joint request of the learned advocates appearing for the parties, the petition is taken up for final disposal today.

3. In the present petition, the petitioner has prayed for quashing and setting aside the order dated 5.5.03. By the said order one Shri A.S.Setha came to be posted as Assistant Education Inspector. Counsel for the petitioner submits that the petitioner was qualified and senior to said Shri A.S.Setha and he therefore, ought to have been considered for posting on the said post. He, however, submits that the petitioner would not be interested in seeking setting aside of the said order since said Shri Setha has already been posted and subsequently posted as Assistant Teacher as per his request. Counsel for the petitioner, however, submits that the case of the petitioner should at least now be considered for being posted as Assistant Education Inspector.

4. Though in the affidavit in reply it is stated that the case of the petitioner was not considered since he did not possess the qualification of M.Com. B.Ed., learned AGP under instructions submits that in fact, the minimum qualifications required are those of B.Com. B.Ed. which the petitioner possesses.

5. In view of the above development, the action of the respondents in not considering the case of the petitioner for being posted as Assistant Education Inspector cannot be approved. However, in view of the fact that the petitioner has given up his challenge to the order dated 5.5.03 and confined his request in the petition for being prospectively considered for the said post, it is directed that the respondents shall consider the case of the petitioner on the existing vacancy on the post of Assistant Education Inspector if one is available and if not on the first available vacancy as per his seniority. With these directions, the petition is disposed of. Rule is made absolute to the above extent with no order as to costs.

Direct service is permitted.

(Akil Kureshi, J.)

(vjn)

